

REMARKS

Claims 1, 9, 13, 19, 29, 30, 34 and 38 have been amended in this Amendment and Response. As a consequence, Claims 1-10, 12-13, 15, 17-21, 23-30 and 33-41 are currently pending in this application.

Each of the pending claims require that either the support member or the support sleeve of the claimed motorcycle stand include a self-lubricating material. In addition, each of the claims has also now been amended to require a coupling device that is removably attached to the support sleeve. This configuration allows the coupling device to be adjustably positionable relative to the support member and provides infinite adjustment of the height of the top portion of the support member relative to the base, within a preselected range. The prior art Paradigm Stand did not include a removably attachable coupling device which allowed for infinite adjustment of the height of the top of the support member relative to the base in a preselected range. Instead, the operating lever was attached to the support member by means of a welded connection point. Further, though the Paradigm Stand moves from a first lower position to a second elevated position, the second elevated position cannot change by adjustment of the coupling device relative to the support sleeve to achieve an infinite number of elevated positions depending upon a use desired by an operator for the overall device. Based upon the amendments and the distinctions, Applicant believes that all pending claims are now in condition for allowance, as the structure added to each of the claims is nowhere taught by any of the prior art of record and is not obvious in light of any of the prior art of record.

Next, the Examiner has argued that:

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Paradigm Stand by providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed. In regard to a seal member, it would have been obvious and well within the level of one skilled in the art to provide the stand of Paradigm Stand with a seal member in order to prevent dirt from entering the telescoping members.

In the argument, the Examiner does not identify any evidence establishing the motivation to combine the Paradigm Stand with the teachings of the Peddinghaus references. Certainly, there is no motivation to combine the teachings of these two references textually included within either reference. Accordingly, it appears that the motivation to combine is being supplied by the Examiner's own education, experience and/or background. As the Examiner is undoubtedly aware, 37 CFR § 104(d)(2) states, in pertinent part:

When a rejection in an application is based on facts within the personal knowledge of an employee of the office, the data shall be specified as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

Applicant in this case hereby requests that the Examiner provide an affidavit, which shall be subject to contradiction or explanation, as to the facts within the Examiner's personal knowledge allegedly establishing the motivation for a person of skill in the art to combine the two applied references. Barring such an affidavit, Applicant can see no reason for the Examiner's rejection

based upon a combination of references for which there is no motivation to combine, and respectfully requests that, in light of this argument as well, the currently amended claims be allowed.

Applicant thus requests that the application now be allowed. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Finally, Applicant wishes to again bring to the Examiner's attention a credit posted to the undersigned's Deposit Account, No. 19-1970. On June 13, 2005, Applicant filed an Amendment and Response to July 14, 2004 Office Action (with Check No. 26089) and a Request for Extension of Time (with Check No. 26088). Both checks have cleared the undersigned's bank account. On December 13, 2005, a credit in the amount of \$510 was posted to Account No. 19-1970 for this application. Applicant believes this credit may be in error, as there is no record of the Deposit Account being charged \$510, because Applicant submitted Check No. 26088 as payment for the extension of time. Applicant thus also requests clarification of the \$510 credit posting for this application. Without such clarification, Applicant will simply drop this matter,

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understanding that the PTO's actions were not made in error, but were apparently completely appropriate under applicable rules and regulations.

Respectfully submitted,

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Date: 8/16/06

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